

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>JAMES ELTERMAN,</p> <p>v.</p> <p>Respondent:</p> <p>GRAND COUNTY BOARD OF COMMISSIONERS.</p>	
<p>Attorney or Party Without Attorney for the Petitioner:</p> <p>Name: Greg Evans Bridge & Associates</p> <p>Address: 390 Union Blvd., Suite 330 Lakewood, Colorado 80228-1556</p> <p>Phone Number: (303) 573-7000</p>	<p>Docket Number: 40099</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on August 24, 2004, Karen E. Hart and Debra A. Baumbach presiding. Petitioner was represented by Greg Evans. Respondent was represented by Anthony DiCola, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2001.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**412 Silver Creek Circle, Tabernash, Colorado
(Grand County Schedule No. R086160)**

The subject is a 1,714 square foot residence built in 1999.

ISSUES:

Petitioner:

Petitioner contends that the subject has been overvalued. The Respondent did not consider the personal property and real estate commissions included in the sales price of the subject.

Respondent:

Respondent contends that the subject property was valued correctly and that all factors affecting the subject were considered. Adjustments were made to the comparable sales for all differences in physical characteristics and personal property was deducted from the sales price of the subject property.

FINDINGS OF FACT:

1. Mr. Greg Evans of Bridge & Associates appeared as a witness and presented the appeal on behalf of Petitioner via telephone conference call.

2. Based on the market approach, Petitioner presented an indicated value of \$718,000.00 for the subject property.

3. Petitioner did not present any comparable sales. Mr. Evans testified that the subject was purchased during the base period on November 30, 1999 for \$750,900.00. The Respondent did not deduct \$22,200.00 in real estate commissions or \$10,900.00 of personal property from the sales price.

4. Mr. Evans testified that Mr. Elterman refutes the amount of personal property included in the sale. The sale included an additional \$11,850.00 of personal property, for a total personal property value of \$22,750.00.

5. Under cross-examination, Mr. Evans testified that the settlement sheet for the subject shows a total balance of \$754,389.09. No personal property is listed on the settlement sheet; however, \$22,200.00 in Broker's commission is listed.

6. Petitioner is requesting a 2001 actual value of \$718,000.00 for the subject property.

7. Respondent's witness, Mr. Tom Weydert, a Registered Appraiser with the Grand County Assessor's Office, presented an indicated value of \$791,800.00 for the subject property based on the market approach.

8. Respondent's witness presented four comparable sales ranging in sales price from \$720,500.00 to \$1,245,000.00 and in size from 1,714 to 4,240 square feet. After adjustments were made, the sales ranged from \$705,907.00 to \$1,093,830.00.

9. Mr. Weydert testified that these were the best sales available for comparison purposes and that adjustments were made to reflect all of the differences in physical characteristics. The time adjustment was derived from 167 sales that occurred during the base period. After reviewing the sales in the area, it was determined that an adjustment was warranted for lots with superior views. The sale of the subject was used in the analysis and is considered to be the best comparable.

10. Mr. Weydert testified that when the Petitioner requested the abatement, the indicated purchase price was \$750,900.00, with \$22,000.00 in Broker's commission and \$10,900.00 in personal property. The Warranty Deed shows the purchase price of \$750,900.00 with a doc fee of \$7.50. No personal property was declared at that time.

11. Mr. Weydert testified that, with the exception of the home theater, a deduction for personal property was made. The seller, Mr. Ken Hughes, indicated that the home was wired for home theater; however, none were installed or included in the sales price. Additionally, no adjustment was made for real estate commissions.

12. Respondent assigned an actual value of \$802,280.00 to the subject property for tax year 2001, but is recommending a reduction in value to \$791,800.00.

CONCLUSIONS:

1. Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2001.

2. Respondent presented a well-documented, site-specific appraisal report. Adjustments were made to all of the comparable sales for differences in physical characteristics. The personal property disclosed by the seller was deducted from the time adjusted sales price.

3. Deducting Broker's commissions from the sales price is not considered appropriate appraisal practice. The Respondent deducted the personal property from the disclosed purchase price. If the Broker's commission was intended to be a seller concession, it would have been reflected in the sales price.

4. Petitioner contends that the Respondent did not consider all of the personal property included in the sale; however, the Petitioner did not present any evidence in support of that contention. It is Petitioner's responsibility to provide the Assessor's office with a complete listing of personal property. If the personal property is not disclosed on the TD 1000, the Respondent relies on the best information available. The Board believes that the Respondent extended great latitude to the Petitioner in deducting \$12,250.00 in personal property.

5. After careful consideration of all of the evidence and testimony presented, the Board concluded that the 2001 actual value of the subject property should be reduced to \$791,800.00.

ORDER:

ORDER:

Respondent is ordered to reduce the actual value of the subject property to \$791,800.00 for tax year 2001.

The Grand County Assessor is directed to change his/her records accordingly.

APPEAL:

Petitioner may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

In addition, if the decision of the Board is against the Respondent, the Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when the Respondent alleges procedural errors or errors of law by the Board of Assessment Appeals.

If the Board recommends that this decision is a matter of statewide concern, or if it results in a significant decrease in the total valuation of the county, Respondent may petition the Court of Appeals for judicial review within 45 days from the date of this decision.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, the Respondent may petition the Court of Appeals for judicial review of such questions with 45 days from the date of this decision.

DATED and MAILED this 30th day of November 2004.

BOARD OF ASSESSMENT APPEALS

Karen E Hart

Karen E. Hart

Debra A. Baumbach

Debra A. Baumbach

This decision was put on the record

NOV 30 2004

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Penny S. Lowenthal
Penny S. Lowenthal

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